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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/595,446

04/20/2006

Ralph Zochert

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03/19/2008

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EXAMINER

SOTELO, JESUS D

ART UNIT

PAPER NUMBER

3617

MAIL DATE

DELIVERY MODE

03/19/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/595,446	<b>Applicant(s)</b> ZOCHERT, RALPH	
	<b>Examiner</b> Jesús D. Sotelo	<b>Art Unit</b> 3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. Claims 1-11 are in the application.

#### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 3-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 3, there is no proper antecedent for “the protruding portion of the screw”.

#### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Jaynes et al (5,504,342).

Looking to Jaynes et al, claim 1 is anticipated in that it only positively recites “a handrail” [figs. 1-5] for the intended use of a tarpaulin, “having a handlebar” [10,30,30]. Beyond that, the claim merely recites that the handlebar “**can be** held between two bushes”. Although the “bushes” are not positively recited, even if they were, the evidence of Jaynes et al meets the limitation by showing two bushes [18, 18’, 36]. And since the “bushes” are not positively recited, the recitation of them “each having a screw thread” is not a positive recitation but merely a

Art Unit: 3617

statement of intended capability of combination with the bushes [18, 18', 36]. Once again, although not required by the claim, the evidence of Jaynes et al also show "screw threads" [fig 3; 22; also shown in fig. 2 and 5]. It is notoriously well known to one with ordinary skill in the art that one function of screw threads is to secure. As such, a screw can go through multiple layers especially when one layer is merely a cloth. The claim recites that for the non-positively recited screw thread they have the capability "to be inserted through the tarpaulin cloth in order to fasten them to the tarpaulin" and "with which the be affixed to the tarpaulin frame". The claim does not require the structure of the tarpaulin (cloth), bushes, screw threads, nor the tarpaulin frame. It also does not recite "how" the screws are to be inserted through the cloth. Also, making note of claim 2, if the "bushes" were positively recited the evidence of Jaynes et al also happens to show "the bush [18, 36] has a fastening arm [fig. 3; 20] o which the screw thread [22] is arranged.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jaynes et al (5,504,342) in view of Ostrow (6,220,557).

Ostrow teaches interconnecting railing by means of support springs (fig. 4).

8. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jaynes et al (5,504,342) in view of Rox et al (5,887,539).

Art Unit: 3617

It would have been obvious to one having ordinary skill in the art to provide a boat as per Jaynes et al with a tarpaulin, generally as taught by Rex et al. The use of tarpaulins in boats is well known in the art.

9. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jaynes et al (5,504,342).

The manner in which the bush is secured to the boat would have been an obvious matter of design choice. The use of screws, bolts and adhesives in various configurations would have been obvious matters of design choice to one skilled in the art.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Carmichael (4,683,900) discloses a boat having a tarpaulin that includes handles 68, 70.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jesús D. Sotelo whose telephone number is 571-272-6686. The examiner can normally be reached on Mon. - Fri. 6:00 AM -3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jesús D. Sotelo/  
Primary Examiner  
Art Unit 3617